IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9083 of 1999
With
SPECIAL CIVIL APPLICATION No. 6206 of 1996
With
SPECIAL CIVIL APPLICATION No. 10016 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NAVSARGON SARVODAY VIVIDH KARYAKARI CHARITABLE TRUST - Petitioner(s)

Versus

DIRECTOR & 1 - Respondent(s)

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Appearance :
MR RN SHAH for Petitioner(s) : 1,
GOVERNMENT PLEADER for Respondent(s) : 1 - 2.
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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 07/12/2005

ORAL JUDGMENT

1. In these petitions, the petitioners trusts who were running Chhatralaya/Ashram have challenged the decision

of the State Government in ordering the closure of the same. The orders passed by the State Government have been impugned on various grounds. It is however not necessary to go into all these grounds in detail on account of the view which I am taking while disposing of these petitions.

2. Earlier this Court had disposed of Special Civil Application No. 182/99 on 3rd February, 2005 and another Special Civil Application No. 1247/99 on 26/10/2005. Issues arising in these petitions are identical to those arising in the present petition. While disposing of the Special Civil Application No. 182/99 learned Single Judge of this Court made following observations:

> "5. Considering the facts and circumstances of the case, I find that the following directions shall meet with the ends of justice:
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> (i)The petitioner shall be supplied the copy of the inspection report made in the year 1998 and thereafter opportunity of hearing shall be given to the petitioner and the authority shall pass fresh order.
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> (ii)It would also be open to the respondent authority to take into consideration the position of the Chhatralaya run by the petitioner as prevailing in the year 2005 as per inspection report, dated 1.2.2005 copy whereof is produced and copy of the same is supplied to Mr. Shah for the petitioner. However, for such purpose, before it is considered, the petitioner shall be given

opportunity of hearing and the matter shall be considered thereafter in accordance with law on the points as to whether the recognition to the petitioner for running the Chhatralaya should be allowed to be continued or not.

It is clarified that at the time when the final decision is taken as indicated hereinabove, the authority shall consider the matter for entitlement of proportionate grant for the period during which the petitioner continued to run the Chhatralaya under the interim orders passed by this Court which remained in operation and however it would be open to the authority to insist fro necessary proof in accordance with law before considering his entitlement for grant and at the time when the final order is passed same shall be considered simultaneously.

(iii)The aforesaid exercise shall be undertaken and completed as early as possible preferably within a period of 8 weeks from today and until the decision is rendered by the authority the status quo as prevailing on today shall continue.”

2.1 During the pendency of the petitions, the impugned orders were stayed and the petitioners have continued running Ashram/ Chhatralaya. It would, therefore, not be appropriate to decide the issues on the basis of situation prevailing in the year 1999. Many years have passed and factually situation would have changed. It would, therefore, be necessary for the respondents to take into account the current position and examine the desirability of continuing of Ashram/ Chhatralaya on the basis of the students availing such facilities currently.

3. These petitions are, therefore, disposed of on the similar lines as done in case of Special Civil Application No. 182/99 and 1247/99. Accordingly following directions are given:

3.1 The respondents may conduct an inspection regarding the number of students availing of the facilities of Ashram/ Chhatralaya currently, if not done recently. The petitioners shall be supplied copies of respective inspection reports. If the respondents prove the order of closure of Ashram/ Chhatralaya, it will be open for the respondents to proceed in accordance with law on the basis of material that may be collected after giving a reasonable opportunity to the petitioners to put-forth their case before the authorities.

3.2 It is further directed that until such time, the final decision is taken as provided hereinabove status quo as on today shall be maintained.

3.3 The authorities shall consider the matter for entitlement of proportionate grant for the period during which the petitioner continued to run the Ashram/

Chhatralaya under the interim order passed by this Court, however it would be open for the authorities to insist upon proof of the same in accordance with law before deciding this issue.

3.4 Above directions shall be carried out preferably within a period of three months from the date of receipt of a copy of this order. With these directions, petitions are disposed of. Rule is made absolute to the above extent. No order as to costs.

4. Direct Service permitted.

(Akil Kureshi, J.)

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